Page 1	
	UNITED STATES DISTRICT COURT
	DISTRICT OF SOUTH DAKOTA
	NORTHERN DIVISION
	SIOUX RURAL WATER SYSTEM,)
	INC., a Non-Profit)
	Corporation,)
)
	Plaintiff,)
	vs.) Case No. 4:15-CV-00229-BC
	CITY OF WATERTOWN, a South)
	Dakota Municipality; and)
	WATERTOWN MUNICIPAL)
	UTILITIES, an Agency of)
	the City of Watertown,)
)
	Defendants.)
	DEPOSITION OF RICHARD D. WESTBROOK, CPA, CFF
	TAKEN ON BEHALF OF THE DEFENDANTS
	JULY 1, 2016





many people don't fall into, but I'm going to go through a couple of ground rules anyway. The first one is I'm going to ask you verbal questions, I need verbal responses. We often communicate with nods of the head, and while that works fine between you and me, it makes it difficult for the court reporter, okay? A. Yes. Q. And make sure that I'm finished asking my question before you start answering it. I would appreciate it and so would the court reporter. I'll try to give you the same courtesy with your answers. I can tell you I can be somewhat verbose and deliberate at times so you might think I'm done when I'm not, okay? A. Okay. Q. Finally, if I ask you a question you don't understand, or if I use some word that doesn't make any sense to you in the context in which I gues it, don't answer that question. Simply tell me you don't understand. I'll be happy to rephrase the question, okay? A. Yes. an agreement at that time to be engaged as an expert or were there subsequent contacts where that occurred? A. I believe I was contacted about mid-February, and probably within a week or of had an engagement letter, which you have a condacted to or it's in my work papers that would be attached to or to support this. Q. Is it part of Exhibit 5, the engagement letter? A. It is not. It is not. Q. Okay. A. But it would be my work product to devel this, that would be in there. Q. Okay. A. And I believe that would be dated on or around that. So there may have been a week b was pretty close to the time I was first contacted. Q. Okay. And when you were first contacted regarding this matter, what were how was resperts to your role as an expert or potential	wo I py of op ut it
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rephrase the question, okay? 22 was the problem or the need explained to you	
23 A Vec 22 respect to your role or an armost as notantial	vith
The first term of the first te	
Q. That way any question you do answer I will 24 expert?	-
25 assume is a question you understood; is that fair? 25 A. They indicated that it was a 1926(b) case.	
Page 7	ge 9
1 A. Yes. 1 I've testified in two of those and one of them w	ıs
2 (Deposition Exhibit No. 5 was marked 2 in the last year and the other was probably 10	
3 for identification.) 3 years before that, or maybe even 15, I can't	
4 Q. (By Mr. Hieb) I have marked and placed 4 recall for sure. But the so I was familiar	
5 before you a document that's been marked as 5 with at least some of what that would entail.	
6 Exhibit 5. Do you recognize that? 6 They had stated that that they needed an expe	rt
7 A. Yes, I do. 7 witness to make a damage calculation under	
8 Q. And what is that? 8 1926(b). And so we talked for I don't remem	
9 A. That is my report in regards to being an 9 the detailed discussions but ultimately I decided	
10 expert witness in the Sioux Rural Water System 10 to accept the engagement, sent them an engagement	nent
Versus the City of Watertown. 11 letter, they signed it, and I was considered	
Q. And have you had a chance to review Exhibit 12 engaged at that time.	-
13 5 that's sitting in front of you? All I'm asking 13 Q. And given the fact that you have had some	
you to do is tell me whether that appears to be a prior experience or had prior experience with	
complete copy of the report that you submitted. 15 Section 1926 cases that's the right statute,	
16 A. Yes, it does. 16 isn't it, 1926?	
Q. Okay. With respect to this engagement, and 17 A. Uh-huh.	μ, Ι
when I call it "this engagement," I'm talking Q 1926 cases, I'm assuming you had a pret about any and all work that you're doing on behalf 19 good idea of what information you would need	
20 of Sioux Rural Water, when did you when were 20 supplied in order to do the analysis that you	10 06
20 of Sloux Rufal water, when did you when were 20 supplied in order to do the analysis that you 21 needed to do to issue a report.	
22 A. I believe it was probably mid-February of 22 A. Yes. There was an email I sent to them	
23 2016. 23 probably about that same time that said this is	
Q. Okay. And at that time what was the what 24 what I'm wanting.	
was the nature of the contact? Did you enter into 25 Q. And what what is that laundry list, if	



UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA NORTHERN DIVISION

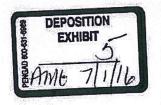
Case No. 4:15-CV-00229-BCW

Sioux Rural Water System, Inc.

VS.

City of Watertown, A South Dakota Municipality; And Watertown Municipal Utilities, An Agency of The City of Watertown

> Expert Witness Report of Richard D. Westbrook, CPA, CFF March 15, 2016



EXPERT OPINION GENERAL DISCUSSION

The foundation and underlying support for my opinions may be found in this report and the various worksheets attached to this report.

EXPERT OPINION #1

The System has suffered an annual loss of profits of \$15,588.17 by not being able to serve the 35 disputed customers. This loss was calculated based on the activity for the years of 2013, 2014 & 2015. It is also my opinion that this loss could be applied to 2016, as well as the years prior to 2013 as such calculation is unlikely to vary in any material amount since the methodology applied to arrive at this loss was based on a 3 year average.

EXPERT OPINION #2

The System will continue to suffer an annual loss of profits as long as the System does not serve the 192 disputed customers. Such losses are calculated annually to be \$64,825.52 from 2017 through 2036 and \$74,377.87 from 2037 through 2049.

EXPERT OPINION #3

The combined loss for all years (including the 2013 through 2016 as noted in Opinion #1) through the payoff of Federal debt is \$2,325,655 (historical dollars). The present value of this loss calculated to December 31, 2016 is \$1,675,476.

SIOUX RURAL WATER SYSTEM, INC. CALCULATION OF TOTAL LOST PROFIT FOR DISPUTED CUSTOMERS

		Pre 2017		2017 - 2036		2037 - 2049	
Sales per Disputed Customer							
Average gallons sold per customer per month		4,327					
Average gallons sold per customer per year		51,925					
Rate per thousand Gallons	\$	3.60					
Incremental sales charge for average customer per year	\$	186.93					
Base Rate @ \$37.00 X 12 months	(1775)	444.00					
Gross Sales per Average Customer	<u>\$</u>	630.93	\$	630.93	<u>s</u>	630.93	
Cost of Water Sold per Disputed Customer						•	
Variable Costs for Sioux Treatment Plant	\$	1.21	\$	1.21	\$	1.21	
Variable Costs for Total System		2.38		2.38		2.38	
Additional Costs for Pipe Improvements				1.75		0.93	
Additional Costs for Well Field Improvements	V ^{acco}	- 	-	0.31		0.17	
Cost per thousand Gallons	<u>s</u>	3.59	\$	5.65	\$	4.69	
Annual Cost per Average Customer	<u>s</u>	186.41	\$	293.30	\$	243.55	
Calculated Annual Gross Profit per Disputed Customer	<u>\$</u>	444.52	\$	337.63	\$	387.38	
Calculated Annual Gross Profit for 35 Disputed Customers	\$	15,558.17					
Calculated Annual Gross Profit for 192 Disputed Customers			\$	64,825.52	\$	74,377.87	
Calculated Total Gross Profit for Period of Federal Debt			\$	1,296,510.00	\$	966,912.00	
	2013 - 2016		2017 - 2036		2037 - 2049		
Calculated Total Lost Profit for Disputed Customers							
Net present value, discount rate based on IRS annuity	s	64,790.00	S	1,068,762.00	S	541 024 00	
rate as of December 31, 2015 (2.0%), all	F 3	04,/90.00	<u>.</u>	1,008,702.00	9	541,924.00	
calculations made to December 31, 2016	J						
Total present value of calculated lost profit	\$	1,675,476.00					